

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
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VIA ECF

January 4, 2019

The Honorable Sarah Netburn, U.S. Magistrate Judge
United States District Court for the S.D.N.Y.
Thurgood Marshall U.S. Courthouse, Room 430
40 Foley Square
New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Netburn:

The Plaintiffs' Executive Committees ("PECs"), on behalf of all plaintiffs, write concerning the letter submitted this afternoon by the Department of Justice, ECF No. 4334, regarding the Standing Order staying "all civil cases (other than civil forfeiture cases) in which the United States Attorney's Office for the Southern District of New York has appeared as counsel of record for the United States, its agencies, or its employees" until "the business day after the President signs into law a budget appropriation that restores Department of Justice funding." Standing Order M10-468 ("the Standing Order"). As the Court is aware, the United States Attorney's Office for the Southern District of New York has appeared in these MDL proceedings, as counsel of record for the United States and certain of its agencies.

While the PECs certainly do not believe that an omnibus stay of all proceedings in this MDL is necessary, various aspects of the MDL will be impacted by the shutdown and resulting resource and legal limitations imposed on the DOJ and relevant agencies. In this regard, the PECs note that the shutdown has put the FBI document production completely on hold, including the ongoing document review. Plaintiffs understand that prior to the shutdown, the FBI was in the midst of preparing several more tranches of responsive documents for production. In addition to delaying the responses of the agencies to the subpoenas and production of records relevant to the ongoing discovery proceedings for an uncertain time, the shutdown may also make it impossible for plaintiffs to continue to pursue certain necessary and important initiatives, such as the service of subpoenas that might require review by the FBI and/or DOJ prior to issuance. The shutdown may also impact the ability of the parties to proceed with depositions of witnesses whom the PECs may want to show documents from the FBI production. Similarly, we understand that discussions between the

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PECs and DOJ aimed at narrowing the disputes relating to the CIA and Treasury subpoenas, which are relevant to the claims against the non-sovereign defendants and required to bring any disputes to the Court's attention, are being deferred. These are just a few examples.

In order to properly and efficiently disentangle aspects of the MDL that are impacted by the shutdown from those that are not, the PECs respectfully propose that the Court direct the PECs, DOJ, Defendants' Executive Committee, counsel for the Kingdom of Saudi Arabia, and counsel for Dallah Avco to meet and confer by Wednesday January 9, 2019, and to submit a proposal or proposals for modification of the Standing Order by Friday January 11, 2019. Our goal would be to arrive at a joint proposal acceptable to all constituencies, but if that is not possible, to concisely summarize the areas of agreement and disagreement.

Respectfully submitted,

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For the Plaintiffs' Exec. Committees

cc: The Honorable George B. Daniels, via ECF
All Counsel of Record via ECF